

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHNNY JONES,

v.

JERRY HOWELL, *et al.*,

Plaintiff,

Defendants.

Case No. 3:21-cv-00030-MMD-CLB

ORDER

This matter is referred to the Court for the limited purpose of determining whether
in forma pauperis status should continue on appeal. (ECF No. 14.) The Court certifies
that any in forma pauperis appeal from its order of dismissal would be frivolous or would
not be taken "in good faith" pursuant to 28 U.S.C. § 1915(a)(3). Jones' complaint was
dismissed because his claims appeared barred by *Nettles v. Grounds*, 830 F.3d 922 (9th
Cir. 2016), *Preiser v. Rodriguez*, 411 U.S. 475 (1973), and *Heck v. Humphrey*, 512 U.S.
477 (1994). The Court's screening order told Jones that it was not clear from his
allegations if overturning the challenged disciplinary punishment would affect his release
date. (ECF No. 5.) Jones was given an opportunity to amend to cure that deficiency. (*Id.*)
He amended but did not cure the deficiency. The Court then gave Jones a second
chance to amend with more guidance. (ECF No. 9.) The deadline to file the second
amended complaint passed without any filing from Jones, and a few weeks later the
Court dismissed and closed the case. (ECF No. 10.) There is no merit to, or novel
question raised by, Jones' appeal.

25 Jones' *in forma pauperis* status should thus be revoked on appeal. See *Hooker v.*
26 *American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (finding revocation of *in forma*
27 *pauperis* status is appropriate where the district court finds the appeal to be frivolous).

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The Clerk of Court is directed to transmit a copy of this order to the Court of Appeals and then terminate the referral notice (ECF No. 14).

DATED THIS 16th Day of March 2022.

MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE